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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
ERNEST COMMUNICATIONS, INC.,)
)
)
Application for a certificate)
of local exchange authority to) No. 03-0562
operate as a facilities-based)
provider and reseller of)
telecommunications services in)
the State of Illinois.)

Chicago, Illinois
November 12, 2003

Met, pursuant to notice at 10:00 a.m.

BEFORE:

MR. JOHN T. RILEY, Administrative Law Judge

1 APPEARANCES:

2 DICKSTEIN, SHAPIRO, MORIN & OSHINSKY, by
3 MR. ADAM KIRSCHENBAUM
4 2101 L Street Northwest
5 Washington D.C. 20037
6 Appearing for Ernest Communications, Inc.
7 (telephonically);

8
9 MR. MARK HANSON
10 527 East Capitol Avenue
11 Springfield, Illinois 62701
12 Appearing for Staff
13 (telephonically).
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21 SULLIVAN REPORTING COMPANY,
22 Julia C. White, CSR
No. 084-004544

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
PAUL MASTERS	6				

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None	so	marked.

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 03-0562. This is an application by Ernest
4 Communications, Incorporated, for a certificate of
5 local exchange authority to operate as a
6 facilities-based provider and a reseller of
7 telecommunications services in the State of Illinois.

8 And beginning with the counsel for the
9 applicant, would you enter an appearance for the
10 record, please.

11 MR. KIRSCHENBAUM: Yes. My name is Adam
12 Kirschenbaum. Last name's K-i-r-s-c-h-e-n-b-a-u-m.
13 I'm with the law firm of Dickstein, Shapiro, Morin
14 and Oshinsky. At 2101 L Street Northwest,
15 Washington, D.C. 20037.

16 I'm admitted in good standing in
17 the -- to the bars of D.C. and Maryland, and I will
18 be -- need to be admitted pro hac vice for the means
19 of this trial.

20 JUDGE RILEY: All right. I'll get with -- to
21 that in just a second. And, Mr. Hanson, would you
22 enter an appearance on behalf of Staff, please.

1 MR. HANSON: Yes. Mark Hanson, Illinois
2 Commerce Commission, Telecommunications Division,
3 527 East Capitol Avenue, Springfield, Illinois.

4 JUDGE RILEY: And does Staff have any objection
5 to the appearance of Mr. Kirschenbaum on behalf of
6 the Applicant?

7 MR. HANSON: No, Judge Riley.

8 JUDGE RILEY: Now -- nor does the Administrative
9 Law Judge. Out of state Counsel routinely appear in
10 these matters and generally the -- there was no
11 impediment to their such -- an appearance, and as a
12 consequence -- or as a result, counsel may appear in
13 this hearing.

14 At this time, Mr. Kirschenbaum, did
15 you want to call your witness?

16 MR. KIRSCHENBAUM: I call, as a witness, Paul
17 Masters --

18 JUDGE RILEY: Hm-hmm.

19 MR. KIRSCHENBAUM: -- of Ernest Communications,
20 Inc.

21 JUDGE RILEY: Thank you.

22

1 (Witness sworn.)

2 JUDGE RILEY: Thank you. Please proceed,

3 Mr. Kirschenbaum.

4 MR. KIRSCHENBAUM: I have no questions of my

5 witness.

6 JUDGE RILEY: All right. Mr. Hanson, did you

7 want to proceed?

8 MR. HANSON: Yes.

9 PAUL MASTERS,

10 called as a witness herein, having been first duly

11 sworn, was examined and testified telephonically as

12 follows:

13 DIRECT EXAMINATION

14 BY

15 MR. HANSON:

16 Q Mr. Masters, I just have a couple

17 questions. The application's pretty well put

18 together. One question I have, in your application I

19 notice there was no -- there was no -- there was no

20 response to the questions on offering prepaid

21 services.

22 Does Ernest Communications, Inc.,

1 intend to offer prepaid services in the state of
2 Illinois?

3 A No, sir. Not at this time.

4 Q No, sir.

5 So what are the type of services
6 that you're intending to operate in the state?

7 A We offer voice services, local service and
8 long-distance services primarily to small businesses.

9 Q And your target market; that is, small
10 businesses?

11 A Yes, sir.

12 Q How do you intend to solicit your business?

13 A Through a combination of direct sales
14 personnel as well as a network of telecommunications
15 agents.

16 Q And your company is currently offering
17 services in how many states?

18 A We are certificated in 28 states, I
19 believe.

20 Q Okay. And there's been no complaints of
21 slamming or cramming in any of those states?

22 A No, sir, there is not.

1 Q I noticed in your application, you say you
2 have a procedure for handling complaints. Since you
3 operate in so many different states, is there -- do
4 you have some sort of training to train your
5 operators in procedures in each state?

6 A Yes, we do.

7 MR. HANSON: Okay. I have no further questions,
8 Judge Riley.

9 JUDGE RILEY: Thank you, Mr. Hanson. Would you
10 stay with us, though, for the duration of the
11 hearing?

12 MR. HANSON: Yes.

13 JUDGE RILEY: Okay. I'll be getting back to
14 you.

15 Mr. Masters, this is Judge Riley. I
16 just have a few questions of my own.

17 MR. MASTERS: Yes, sir.

18 JUDGE RILEY: Let me confirm with you that the
19 applicant is applying for service under Sections
20 13404 and 13405 of the Illinois Public Utilities Act.
21 With regard to 13404, is the Company asking for
22 resold local and long-distance service?

1 MR. MASTERS: I'm sorry, sir?

2 JUDGE RILEY: Is the Company asking for a
3 certificate to provide resold local and long
4 distance?

5 MR. MASTERS: I believe so, yes.

6 JUDGE RILEY: Okay. And under Section 13405,
7 it's also requesting permission to provide
8 facilities-based local service?

9 MR. MASTERS: Yes, sir.

10 JUDGE RILEY: All right. The name on the
11 application reads Ernest Communications,
12 Incorporated. Is this the same name that is to
13 appear on the certificate?

14 MR. MASTERS: Yes, sir.

15 JUDGE RILEY: And are there any assumed or doing
16 business as names?

17 MR. MASTERS: ECI.

18 JUDGE RILEY: I'm sorry?

19 MR. MASTERS: ECI.

20 JUDGE RILEY: It will be doing business as ECI?

21 MR. MASTERS: Yes, sir.

22 JUDGE RILEY: Has the Company applied for a

1 Certificate of Authority to do business under an
2 assumed name in Illinois?

3 MR. MASTERS: No, sir.

4 JUDGE RILEY: Is Ernest Communications an --
5 excuse me a minute -- strike that.

6 Is Ernest Communications requesting
7 permission to keep its books and records at its
8 principal place of business in Georgia?

9 MR. MASTERS: Yes, sir.

10 JUDGE RILEY: And with regard to the financial
11 data that was submitted, I note that it is dated as
12 of December 31, 2002. Is this for -- is this
13 financial data for the Applicant itself?

14 MR. MASTERS: Yes, it is.

15 JUDGE RILEY: And can you testify today that the
16 financial status of the Company is the same or better
17 as it appears on those financial statements?

18 MR. MASTERS: Yes, I can.

19 MR. HANSON: Judge Riley, can I interject here?

20 JUDGE RILEY: Yes.

21 MR. HANSON: I have requested more updated
22 financial information from the Applicant and have

1 reviewed it, and I think it's -- it is satisfactory.

2 JUDGE RILEY: Okay. Has any -- has that

3 information been submitted to the E docket system?

4 MR. HANSON: No. I just requested some updated

5 financial information just to -- since the

6 information was as of 2002.

7 JUDGE RILEY: Okay. And what you got was -- how

8 much more recent is it?

9 MR. HANSON: As of the last quarter, I believe.

10 December 30th.

11 JUDGE RILEY: All right. Could you fax me

12 copies of that?

13 MR. HANSON: I could e-mail you the copy from

14 the permission -- if I can get the permission, or

15 would you prefer a fax, Judge Riley?

16 JUDGE RILEY: Fax would be little bit -- well,

17 to tell you the truth, e-mail would be perfectly

18 adequate if that's okay with the -- if there are no

19 objections from the --

20 MR. HANSON: We want it to be proprietary and

21 not -- Mr. Kirschenbaum?

22 MR. KIRSCHENBAUM: Yeah.

1 MR. HANSON: I know when you sent me the
2 document, you had requested that this be held in a
3 proprietary status. Are you comfortable with Judge
4 Riley examining the information?

5 MR. KIRSCHENBAUM: We're comfortable with Judge
6 Riley examining it although we request that it be
7 confidential and proprietary and not for public
8 viewing.

9 JUDGE RILEY: No. I will grant proprietary
10 status to the documentation. Now, what is the most
11 feasible method of providing it to me without
12 compromising it? Would an e-mail compromise it?
13 That's my concern.

14 MR. KIRSCHENBAUM: Judge Riley, I can forward
15 you the documentation or via e-mail.-

16 MR. HANSON: Judge Riley, I can forward it to
17 you right now. It -- I just wanted to check if
18 Mr. Kirschenbaum and Mr. Masters are comfortable with
19 that?

20 MR. KIRSCHENBAUM: Paul, I have no objections
21 unless you do.

22 MR. MASTERS: No.

1 JUDGE RILEY: All right then, Mr. Hanson, just
2 e-mail that to me. That will be fine.

3 MR. HANSON: Okay. I'm just doing it right now.

4 JUDGE RILEY: And let the record reflect, that
5 the information that is to be e-mailed to me will
6 supersede the information that's already been filed
7 on our E docket system.

8 Mr. Masters, who will do the technical
9 support for the applicant in the event that it's
10 needed?

11 MR. MASTERS: It will be a qualified staff of
12 individuals that we maintain.

13 JUDGE RILEY: And these people are employed by
14 the applicant?

15 MR. MASTERS: Yes, they are.

16 JUDGE RILEY: And will the company be adhering
17 to all federal and state laws and regulations with
18 regard to slamming and cramming?

19 MR. MASTERS: Yes, sir.

20 JUDGE RILEY: Will the Applicant be providing
21 operator-assistance services or will that be handled
22 by an underlying carrier?

1 MR. MASTERS: We will not be providing.

2 JUDGE RILEY: Staff, before I get back to you --

3 Mr. Hanson, are you still there?

4 MR. HANSON: Yes.

5 JUDGE RILEY: Are you going to e-mail that to me

6 right now?

7 MR. HANSON: It's already been sent.

8 JUDGE RILEY: Let me go down and get it. I'll

9 be back in -- probably about five minutes.

10 MR. HANSON: Okay.

11 JUDGE RILEY: We'll have that and one other --

12 just a couple other matters to deal with. I'll be

13 right back.

14 (Whereupon, a recess was taken.)

15 JUDGE RILEY: So let's go back on the record.

16 I have retrieved the financial data

17 that was e-mailed to me by Mr. Hanson, and I note for

18 the record that it's -- contains information not only

19 through December 31, 2002, but also through

20 September 30, 2003. It is much more recent and up to

21 date, and to reiterate, I will -- this will supersede

22 the information that was originally forwarded to our

1 e-mail system by the applicant.

2 And before I get to the matter of
3 the exhibits, I have no further questions for the
4 witness. I want to revisit the matter of the doing
5 business as name.

6 Mr. Masters, again, you say that
7 the company will be marketing itself or doing
8 business as ECI in Illinois?

9 MR. MASTERS: Yes, sir.

10 JUDGE RILEY: And, yet, the Company has not
11 applied for a Certificate of Authority to do business
12 under an assumed name in Illinois; is that correct?

13 MR. MASTERS: That's correct.

14 JUDGE RILEY: Okay. That is going to have to be
15 obtained from our Secretary of State's Office before
16 I can submit an order to the Commission and,
17 consequently, I do not want to close this record
18 until that has been obtained.

19 MR. MASTERS: Okay. So I want to make sure that
20 I understand.

21 JUDGE RILEY: Yes?

22 MR. MASTERS: Using ECI in any marketing

1 practices without having a certificate issued in that
2 name as well, is --

3 JUDGE RILEY: In other words, it will preclude
4 me submitting an order to the Commission.

5 MR. MASTERS: All right. Well, then just doing
6 business as Ernest Communications, Inc., is fine.

7 JUDGE RILEY: Then it's my understanding that
8 the company will not be doing business as ECI in
9 Illinois?

10 MR. MASTERS: That's correct.

11 JUDGE RILEY: Okay. And then let's go to the
12 matter of the exhibits. Taking the financial exhibit
13 as Applicant's Exhibit 1, Mr. Hanson, you've stated
14 that you have reviewed this material?

15 MR. HANSON: Yes, sir.

16 JUDGE RILEY: And do you have any objection to
17 the admission of Exhibit 1 into evidence?

18 MR. HANSON: No, sir.

19 JUDGE RILEY: All right. Mr. Kirschenbaum, if
20 it's okay with you, I'm going to mark this as
21 Applicants Exhibit 1 --

22 MR. KIRSCHENBAUM: No objection.

1 JUDGE RILEY: -- and upon your motion admit it
2 into evidence as such. And, again, I note for the
3 record that the information submitted to me by
4 Mr. Hanson supersedes the information that was
5 submitted to our E docket system.

6 MR. KIRSCHENBAUM: And, again, we request that
7 it be confidential and proprietary.

8 JUDGE RILEY: Yes. And let me state that the
9 confidential and proprietary status is recorded to
10 this documentation immediately. I want to mark as
11 Applicant's Exhibit 2 what was submitted to our
12 e-Docket system as Attachment 214, the Managerial and
13 Technical Resources and Biographies of Ernest
14 Communications, Inc. Management Team; and I note that
15 it contains a brief resume of
16 Mr. J. Paul Masters, the president, and
17 Joseph J. Ernest, the chief executive officer.

18 Mr. Masters, are these two -- I say
19 profiles -- still accurate and up to date?

20 MR. MASTERS: Yes, they are.

21 JUDGE RILEY: All right. Then -- and are there
22 any changes to them as they were submitted to our

1 e-Docket system?

2 MR. MASTERS: No, sir.

3 JUDGE RILEY: Should you be identified in this
4 order as Mr. J. Paul Masters or is Paul Masters
5 sufficient?

6 MR. MASTERS: Paul Masters is sufficient.

7 JUDGE RILEY: All right. Then I'll mark these
8 as Applicant's Exhibit 2, and I will -- and
9 Mr. Kirschenbaum, if there -- if this is consistent,
10 I will admit these into evidence as Applicant's
11 Exhibit 2.

12 MR. KIRSCHENBAUM: No objection.

13 JUDGE RILEY: All right. Excuse me, Mr. Hanson,
14 I should have asked you, is there any objection to
15 the admission of Applicant's Exhibit No. 2?

16 MR. HANSON: No, sir.

17 JUDGE RILEY: All right. And, Mr. Hanson, the
18 last order of business, do you have a recommendation
19 with regard to this application?

20 MR. HANSON: Yes. I believe the applicant has
21 the technical, managerial and financial confidence to
22 offer our telecommunications services in the state of

1 Illinois.

2 JUDGE RILEY: Thank you.

3 Mr. Kirschenbaum, did you have

4 anything further for the witness?

5 MR. KIRSCHENBAUM: Nothing further.

6 JUDGE RILEY: Thank you. Then I will direct the

7 reporter to mark this matter heard and taken, and I

8 will prepare an order to the Commission as early as

9 possible. Thank you very much.

10 MR. HANSON: Thank you.

11 MR. KIRSCHENBAUM: Thank you, your Honor.

12 HEARD AND TAKEN. . .

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